

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 125.7 and 2009 Iowa Code Supplement section 135.150(1)“b,” the Department of Public Health gives Notice of Intended Action to amend Chapter 155, “Licensure Standards for Substance Abuse Treatment Programs,” and to rescind Chapter 162, “Licensure Standards for Problem Gambling Treatment Programs,” Iowa Administrative Code.

The proposed amendments provide the Department the ability to license problem gambling and substance abuse treatment programs in Iowa with one set of standards, one licensure survey, comprehensive technical assistance, and appropriately credentialed counselors.

These rules are subject to waiver pursuant to 641—Chapter 178.

Any interested person may make written comments on these proposed amendments on or before April 13, 2010, addressed to Bob Kerksieck, Division of Behavioral Health, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail [rkerksie@idph.state.ia.us](mailto:rkerksie@idph.state.ia.us).

Also, a public hearing will be held in Room 518 of the Lucas State Office Building, Des Moines, Iowa, on Tuesday, April 13, 2010, from 11 a.m. to 12 noon, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of specific needs.

These amendments are intended to implement Iowa Code chapter 125 and 2009 Iowa Code Supplement section 135.150.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 155**, title, as follows:

**LICENSURE STANDARDS FOR SUBSTANCE ABUSE AND PROBLEM GAMBLING TREATMENT PROGRAMS**

ITEM 2. Amend rules **641—155.1(125)** to **641—155.16(125)**, **641—155.18(125)** to **641—155.25(125)** and **641—155.35(125)**, parenthetical implementation, as follows:  
(125,135)

ITEM 3. Amend the following definitions in rule **641—155.1(125,135)**:

“*Acute intoxication or withdrawal potential*” is a category to be considered in the ASAM-PPC-2R ~~client/patient placement, continuing service and discharge~~ criteria. This category evaluates client/patient’s current status of intoxication and potential for withdrawal complications ~~as it impacts on level of care decision making~~. Historical information about client/patient’s withdrawal patterns may also be considered.

“*Admission criteria*” means specific ASAM-PPC-2R criteria to be considered in determining appropriate client/patient placement and resultant referral to a level of care (substance abuse treatment only). Criteria vary in intensity and are organized into ~~six categories: acute intoxication or withdrawal potential, biomedical conditions or complications, emotional/behavioral conditions or complications, treatment resistance/acceptance, relapse potential, and recovery environment~~ to be used by treatment programs for assessment and treatment planning.

*“Applicant”* means any ~~substance abuse~~ treatment program which has applied for a license or renewal thereof.

*“Application”* means the process through which a ~~substance abuse~~ treatment program applies for a license or renewal as outlined in the application procedures.

*“Biomedical conditions and complications”* means one category to be considered in the ASAM-PPC-2R ~~client/patient placement, continuing service and discharge~~ criteria. This category evaluates client/patient’s current physical condition as ~~it impacts on level of care decision making~~. Historical information on client/patient’s medical/physical functioning may also be considered. This category includes biological and physical aspects of the medical assessment and treatment of a patient client/patient. ~~In addiction treatment, the physical~~ Physical problems may be the direct result of ~~the a~~ substance use disorder, or be independent of and interactive with ~~them~~ such a disorder, thus affecting the total treatment plan and prognosis.

*“Client/patient”* means an individual who ~~has is~~ a substance ~~abuse problem~~ abuser or a problem gambler or is chemically dependent, has been assessed as appropriate for services, and for whom screening procedures have been completed.

*“Clinical oversight”* means oversight provided by an individual who, by virtue of education, training and experience, is capable of assessing the psychosocial history of a ~~substance abuser~~ client/patient to determine the most appropriate treatment plan ~~most appropriate for the client/patient~~. The person providing oversight shall be designated by the applicant treatment program.

*“Concerned family member ~~or concerned person~~”* or *“concerned person”* means an individual who is seeking treatment services due to problems arising from the person’s involvement or association with a substance abuser, ~~or~~ chemically dependent individual, problem gambler or client/patient; and who is negatively affected by the behavior of the substance abuser, chemically dependent individual, problem gambler or client/patient.

*“Continuing care”* means a Level I service of the ASAM-PPC-2R ~~client/patient placement~~ criteria, which provides a specific period of structured therapeutic involvement designed to enhance, facilitate and promote transition from primary care to ongoing recovery. ~~Continuing service reviews will not be required or applicable to Level I continuing care/aftercare client/patients. Also, there~~ There shall not be any required frequency of review for continuing service care or frequency of review of treatment plan by client/patient and counselor.

*“Continuum of care”* means a structure of interlinked treatment modalities and services designed so that ~~an individual’s~~ a client/patient’s changing needs will be met as ~~that individual~~ the client/patient moves through the treatment and recovery process.

*“Counselor”* means an individual who, by virtue of education, training or experience, provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore the person’s problems related directly or indirectly to substance abuse, ~~or~~ chemical dependence or problem gambling.

*“Division”* means the division of behavioral health ~~and professional licensure~~.

*“Emotional, behavioral or cognitive conditions and complications”* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement and continuing service~~ criteria. This category evaluates client/patient’s current emotional, behavioral, and cognitive status as ~~it impacts on level of care decision making~~. Emotional, behavioral or cognitive status may include, but is not limited to, psychiatric conditions, psychological or emotional/behavioral complications, poor impulse control, changes in mental status, or transient neuropsychiatric complications and the behavior that accompanies or follows these emotional states. Historical information on ~~client/patient~~ client/patient’s emotional/behavioral functioning may also be considered.

*“Extended outpatient treatment”* means a Level I service of the ASAM-PPC-2R ~~client/patient placement~~ criteria, which is an organized, nonresidential service. Services Extended outpatient treatment services usually are provided in regularly scheduled sessions which ~~do not exceed~~ include less than nine treatment hours a week for adults or less than six treatment hours a week for adolescents. For problem gambling client/patients, extended outpatient treatment services may be offered in conjunction with transitional housing.

“*Facility*” means a hospital, detoxification center, institution or program licensed under Iowa Code section 125.13 or 2009 Iowa Code Supplement section 135.150 providing care, maintenance and treatment for ~~substance abusers~~ client/patients. Facility also includes the physical areas such as grounds, buildings, or portions thereof under direct administrative control of the program.

“*Intensive outpatient treatment (Level II.1)*” means intensive outpatient programs (IOP) that provide a minimum of nine hours for adults or a minimum of six hours for adolescents of structured programming per week, consisting primarily of counseling and education ~~focused on alcohol and other drug problems~~. IOP differs from partial hospitalization (Level II.5) in the intensity of clinical services that are directly available. ~~Specifically, an IOP has less capacity to effectively treat individuals who have substantial medical and psychiatric problems. For problem gambling client/patients, the service may be offered in conjunction with transitional housing.~~

“*Iowa board of ~~substance abuse~~ certification*” means the professional certification board that certifies substance abuse counselors and prevention specialists, problem gambling treatment specialists and other addiction treatment specialists in the state of Iowa.

“*Licensure*” means the issuance of a license by the department and the board which validates the licensee’s compliance with ~~substance abuse~~ treatment program standards and authorizes the licensee to operate a ~~substance abuse~~ treatment program in the state of Iowa.

“*Management of care*” means the process to ensure the appropriate level of care is utilized by implementing ASAM-PPC-2R criteria during the placement screening, continuing service and discharge ~~process~~. This process includes discharge planning that begins at admission to meet the immediate, ongoing and posttreatment needs of the client/patient.

“*Outreach*” means public speaking engagements and other similar activities and functions that inform the public of available programs and services offered by a ~~substance abuse~~ treatment program. In addition, outreach is a process or series of activities that identifies individuals in need of services, engages them and links ~~the individual in need of services~~ them with the most appropriate resource or service provider. Such activities may include, but are not limited to, the following: individual client/patient recruitment through street outreach and organized informational sessions at churches, community centers, recreational facilities, and community service agencies.

“*Primary care modality*” means a ~~substance abuse~~ treatment component or modality including continuing care, halfway house, extended outpatient treatment, intensive outpatient treatment, primary extended residential treatment, medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment services.

“*Readiness to change*” is a category to be considered in the ASAM-PPC-2R ~~client/patient placement~~ criteria. This category evaluates the client/patient’s current emotional and cognitive awareness of the need to change and ~~the client/patient’s~~ level of commitment to change. ~~It includes the client/patient’s awareness of the relationship of alcohol or other drug use to negative consequences.~~

“*Recovery/living environment*” is a category to be considered in the ASAM-PPC-2R ~~client/patient placement~~ criteria. This category evaluates client/patient’s current recovery/living environment as it impacts on level of care decision making and treatment planning. Recovery/living environment may include, but is not limited to, current relationships and degree of support for recovery, current housing, employment situation, and availability of alternatives. Historical information on client/patient’s recovery/living environment may also be considered.

“*Relapse*” means progressive irresponsible, inappropriate and dysfunctional behavior patterns that could lead to resumption of alcohol or drug use or problem gambling. “Relapse” also refers to the resumption of alcohol or drug use or problem gambling.

“*Relapse, ~~continued use or continued problem~~ potential*” is a category to be considered in the ASAM-PPC-2R ~~client/patient placement and continuing service~~ criteria. This category evaluates client/patient’s current factors that contribute to relapse potential as it impacts on level of care decision making and treatment planning. Relapse potential may include, but is not limited to, current statements by client/patient about relapse potential, reports from others on potential for ~~client/patient~~ client/patient’s relapse, and assessment by clinical staff. Historical information on client/patient’s relapse potential may also be considered. This category may include the client/patient’s

understanding of skills in coping with addictive or mental disorders, recognition of relapse triggers, skills to control impulses and ways to cope with ~~cravings to use~~ relapse potential.

“*Residential program*” means a 24-hour, live-in, seven-day-a-week ~~substance abuse~~ treatment program facility offering intensive rehabilitation services to individuals who are considered unable to live or work in the community due to social, emotional, or physical disabilities resulting from substance abuse or problem gambling. The ASAM-PPC-2R levels of care may include III.1, III.3, III.5 or III.7.

“*Staff*” means any individual who provides services to the treatment program on a regular basis as a paid employee, agent, or consultant, or as a volunteer.

“*Standards*” means specifications representing the minimal characteristics of a ~~substance abuse~~ treatment program which are acceptable for the issuance of a license.

“*Treatment*” means the broad range of planned and continuing, inpatient, outpatient, and residential care services, including diagnostic evaluation, counseling, and medical, psychiatric, psychological, and social service care, which may be extended to substance abusers, problem gamblers, concerned persons, concerned family members, or significant others, ~~and which~~. Treatment is geared toward influencing the behavior of such individuals to achieve a state of rehabilitation.

“*Treatment supervisor*” means an individual who, by virtue of education, training or experience, is capable of assessing the psychosocial history of a ~~substance abuser~~ client/patient to determine the treatment plan most appropriate for the client/patient. This person shall be designated by the ~~applicant~~ treatment program.

ITEM 4. Adopt the following new definitions in rule **641—155.1(125,135)**:

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996.

“*OWI*” means operating while intoxicated, in violation of Iowa Code chapter 321J.

“*Primary scope of practice*” means the area in which a counselor maintains a professional license or certification.

“*Problem gambling*” means a pattern of gambling behavior which may compromise, disrupt or damage family, personal or vocational pursuits.

“*Recovery oriented system of care*” means person-centered and self-directed approaches to care that build on the strengths and resilience of individuals, families and communities to take responsibility for their sustained health, wellness, and recovery from mental illness, alcohol and drug problems, and problem gambling. A recovery oriented system of care offers a comprehensive menu of services and supports that can be combined and readily adjusted to meet the individual’s needs and chosen pathway to recovery.

“*Specialized certification*” means a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.

“*Subspecialty*” means a secondary scope of practice, either substance abuse treatment or problem gambling treatment, approved in accordance with these rules. To maintain expertise within the subspecialty, the counselor shall complete a minimum of an additional 20 hours of training within the subspecialty every two years.

“*Transitional housing*” means housing that may be offered to individuals who are problem gamblers and who have no other housing alternatives or whose housing alternatives are not conducive to problem gambling recovery. Transitional housing shall be offered with Level I problem gambling treatment services.

“*Treatment program*” means a program licensed under these rules. A treatment program may be a substance abuse treatment program, a problem gambling treatment program, or a substance abuse and problem gambling treatment program.

ITEM 5. Amend rule 641—155.2(125,135) as follows:

**641—155.2(125,135) Licensing.** A single license will be issued to each qualifying ~~substance abuse~~ treatment program. The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. The categories of services for which licenses will be issued are:

1. to 8. No change.
9. Intensive outpatient/partial hospitalization services: Levels II.1 and II.5; ~~and~~
10. Outpatient extended and continuing care services: Level I-; ~~and~~
11. Substance abuse treatment, problem gambling treatment, or combined substance abuse and problem gambling treatment.

ITEM 6. Amend rule 641—155.4(125,135) as follows:

**641—155.4(125,135) Nonassignability; program closure.**

**155.4(1)** A license issued by the department for the operation of a ~~substance abuse treatment~~ program applies both to the applicant program and the premises upon which the program is to be operated. Licenses are not transferable.

**155.4(2)** A discontinued program is one which has terminated ~~its~~ the services for which it has been licensed. When a program is discontinued, its current license is void immediately and shall be returned to the department.

**155.4(3)** Any person or other legal entity acquiring a licensed facility for the purpose of operating a ~~substance abuse treatment~~ program shall ~~make an application as provided~~ apply for a new license.

**155.4(4)** ~~Similarly, any~~ Any person or legal entity having acquired a license and desiring to fundamentally alter the treatment philosophy or transfer to a different premises must notify the board 30 days prior to said action in order for the department to review the site change and to determine appropriate action.

**155.4(5)** A licensee shall, if possible, notify the department of impending closure of the licensed program at least 30 days prior to such closure. The licensee shall be responsible for the removal and placement of ~~patients or clients~~ client/patients and for the preservation of all records. Upon closing all facilities and terminating all service delivery activities, the licensee shall immediately return the license to the department.

ITEM 7. Amend subrule 155.5(1) as follows:

**155.5(1)** *Application information for comprehensive programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health ~~and Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

- a. The name and address of the applicant ~~substance abuse~~ treatment program.
- b. The name and address of the executive director of such ~~substance abuse~~ treatment program.
- c. No change.
- d. The names and addresses of members of the governing body, sponsors, or advisory boards of such ~~substance abuse~~ treatment program and current articles of incorporation and bylaws.
- e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the ~~substance abuse~~ treatment program has a direct contractual or affiliation agreement.
- f. A description of the treatment services provided by the ~~substance abuse~~ treatment program and a description of weekly activities for each treatment modality or component.
- g. to m. No change.

ITEM 8. Amend subrule **155.5(2)**, introductory paragraph, as follows:

**155.5(2)** *Application information for substance abuse assessment and evaluation programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health ~~and Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 9. Amend subrules 155.5(3) and 155.5(4) as follows:

**155.5(3)** *Renewal.* An application for renewal shall be submitted on forms provided by the department at least 60 calendar days before expiration of the current license. ~~Applications~~ An application for licensure renewal will not be considered complete until a current policies and procedures manual has been submitted to the department by the applicant ~~substance abuse~~ treatment program.

**155.5(4) Application update or revision.** The department shall be notified, and a request of an application for licensure for update or revision shall be made, by an existing licensed program 30 days prior to any change(s) of address of offices, facilities, or program locations; or additions or deletions of the type(s) of services or programs provided and licensed. A new licensure application form shall be completed to reflect change of address of offices, facilities, or program locations, or additions or deletions of the type(s) of services or program(s) provided or licensed, and shall be returned to the division within 10 working days from the date the forms are received. ~~After receipt of an updated or revised application for licensure, the division shall conduct an on-site visit within 60 days to verify information contained in the application.~~ When applicable, as determined by the department, an on-site licensure inspection of a new component, service, program or facility may be conducted by the department within six months, upon receipt of the updated or revised application or during an existing licensed program's scheduled relicensure on-site inspection, whichever occurs first.

ITEM 10. Amend subrules 155.7(1) and 155.7(2) as follows:

**155.7(1) Technical assistance.** ~~All treatment programs~~ A program applying for an initial license to operate a ~~substance-abuse~~ treatment program in the state of Iowa will be visited by the department for the purpose of providing needed technical assistance regarding the licensure criteria and procedures. The program may waive technical assistance in order to expedite the licensing process. Requests shall be submitted in writing to the division.

a. and b. No change.

**155.7(2) On-site visit for licensure.** A licensure on-site inspection shall be scheduled after the department's receipt of the program's application to operate a ~~substance-abuse~~ treatment program. The department shall not be required to provide advance notice to the program of the on-site visit for licensure.

a. to c. No change.

ITEM 11. Amend subrule 155.8(1) as follows:

**155.8(1) Board hearing meeting preparation.** The division shall prepare a report with a final recommendation for licensing to be presented at a board meeting within ~~60~~ 80 days from the site visit. Public notice of board meetings shall be made in accordance with Iowa Code section 21.4.

a. and b. No change.

ITEM 12. Adopt the following new subparagraphs **155.10(1)“b”(1) to (3)**:

(1) A program applying for a 270-day license shall have a minimum score of 15 percent in clinical standards.

(2) A program applying for a 270-day license shall have a minimum score of 70 percent in administrative standards.

(3) A program applying for a 270-day license shall have a minimum score of 55 percent in programming standards.

ITEM 13. Amend paragraph **155.11(1)“c”** as follows:

c. Violation by a program, program employee or agent of any statute or rule pertaining to ~~substance abuse~~ treatment programs, including a violation of any provision of this chapter.

ITEM 14. Amend paragraph **155.11(1)“m”** as follows:

m. Inappropriate conduct by a program employee staff, including ~~sexual contact with a client/patient of the program~~ or other harassment or exploitation of a program client/patient, volunteer, trainee or employee.

ITEM 15. Amend paragraph **155.11(5)“b”** as follows:

b. The licensee may request a hearing on the determination. The request must be in writing, and mailed to the department address within 30 days of the notice issued by the board. The request shall be sent by certified mail, return receipt requested. Failure to request a hearing will result in final action by the board.

ITEM 16. Amend subrule 155.11(6) as follows:

**155.11(6)** Summary suspension. If the board finds that the health, safety or welfare of the public is endangered by continued operation of a ~~substance-abuse~~ treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

ITEM 17. Amend subrule 155.16(1) as follows:

**155.16(1)** *Complaints*. Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be mailed or delivered to the division director at the Division of Behavioral Health and Professional Licensure, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. A complaint form may be downloaded on-line at: [http://www.idph.state.ia.us/bh/common/pdf/substance\\_abuse/complaint\\_form.pdf](http://www.idph.state.ia.us/bh/common/pdf/substance_abuse/complaint_form.pdf). The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the board's own motion pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

ITEM 18. Amend subrule 155.16(5) as follows:

**155.16(5)** *Confidential information and public information*. Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to ~~clients and patients~~ client/patients by number and shall not include any other ~~client or patient~~ client/patient identifying information. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

ITEM 19. Amend rule 641—155.18(125,135), introductory paragraph, as follows:

**641—155.18(125,135) Deemed status**. The board shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the board determines that the accreditation is for the same services. Problem gambling treatment components shall not be granted deemed status under this rule, unless specifically reviewed by the accreditation body.

ITEM 20. Amend paragraph **155.18(1)“a”** as follows:

a. ~~Joint Commission on Accreditation of Healthcare Organizations (JCAHO).~~

ITEM 21. Amend paragraph **155.18(2)“b”** as follows:

b. Deemed status means that the board and division shall recognize, in lieu of their own review, an outside body's review, assessment, and accreditation of a hospital-based or freestanding community-based ~~substance-abuse~~ treatment program's operations, functioning, and services that correspond to those described in this chapter.

ITEM 22. Amend paragraphs **155.18(3)“c”** and **“g”** as follows:

c. Copies of the entire CARF, ~~JCAHO~~ Joint Commission, COA, or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

g. All survey reports for the hospital-based or freestanding community-based ~~substance abuse~~ treatment program from the accrediting or licensing body shall be sent to the division.

ITEM 23. Amend subrule 155.18(5) as follows:

**155.18(5)** *Continuation of deemed status*. The program shall submit a copy of all CARF, ~~JCAHO~~ Joint Commission, COA, or AOA behavioral health accreditation survey reports to the division.

ITEM 24. Amend rule 641—155.21(125,135), introductory paragraph, as follows:

**641—155.21(125,135) General standards for all substance-abuse treatment programs.** The following standards shall apply to all ~~substance-abuse~~ treatment programs in the state of Iowa regardless of the category of treatment services provided by such programs. In situations where differences between general standards for all treatment programs and specific standards occur, both general and specific standards must be met.

ITEM 25. Amend subrule 155.21(1), introductory paragraph, as follows:

**155.21(1) Governing body.** Each program shall have a formally designated governing body that is representative of the community being served, complies with ~~the~~ Iowa Code chapter 504, and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for requirements to have malpractice and liability insurance.

ITEM 26. Amend subrule 155.21(4) as follows:

**155.21(4) Staff development and training.** There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain professional license or ~~substance abuse~~ certification as specified in 155.21(8) will meet the requirements of this subrule.

a. Evidence of professional education, ~~substance-abuse~~ certification as specified in 155.21(8), licensing, or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, and tuberculosis and blood-borne pathogens; an orientation to the program and community resources; counseling skill development; HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

b. No change.

c. The staff development program shall take steps to ensure that staff members are kept informed of new developments in the field of ~~substance-abuse~~ assessment, evaluation, placement, treatment and rehabilitation.

d. to g. No change.

ITEM 27. Amend subrules 155.21(5) and 155.21(6) as follows:

**155.21(5) Management information system.** Programs receiving Medicaid or state funding and programs performing OWI evaluations in accordance with 641—Chapter 157 shall submit client/patient data to the Iowa Department of Public Health, Division of Behavioral Health ~~and Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with ~~substance-abuse~~ reporting system procedures.

**155.21(6) Procedures manual.** All programs shall develop and maintain a procedures manual. This manual shall define the program's policies and procedures to reflect the program's activities. Revisions shall be entered with the date, name and title of the individual making the entries. This manual shall contain all of the required written policies, procedures, definitions, and all other documentation outlined throughout these standards. The manual shall contain a working table of contents covering all policies and procedures mandated by this chapter.

ITEM 28. Amend subrule 155.21(8), introductory paragraph, as follows:

**155.21(8) Personnel.** Written personnel policies and procedures shall be developed by all programs except for sole practitioners. ~~The sole practitioner~~ All program staff shall subscribe to a code of conduct ~~such as~~ found in professional certification or licensure as specified in 155.21(8).

ITEM 29. Amend subparagraph **155.21(8)“a”(11)** as follows:

(11) Methods for handling cases of inappropriate client/patient care;

ITEM 30. Amend paragraph **155.21(8)“b”** as follows:

*b.* The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.

ITEM 31. Rescind paragraph **155.21(8)“i”** and adopt the following **new** paragraph in lieu thereof:

*i.* Appropriately credentialed counselors.

(1) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet at least one of the following conditions:

1. Currently maintain a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.

2. Currently maintain active status as a licensed marital and family therapist (LMFT) licensed under Iowa Code chapters 154D and 147; a licensed mental health counselor (LMHC) licensed under Iowa Code chapters 154D and 147; a licensed independent social worker (LISW) licensed under Iowa Code chapters 154C and 147; or another licensed professional authorized by the Iowa Code to diagnose and treat DSM-IV disorders.

3. Currently maintain active status as a licensed master social worker (LMSW) licensed under Iowa Code chapters 154C and 147.

4. For a person beginning employment on or after July 1, 2010, at a program licensed in Iowa pursuant to this chapter who does not currently maintain one of the credentials described in “1” to “3” above, successfully complete and maintain one of those credentials within two years of the date on which the person begins to provide services.

5. Be employed before July 1, 2010, as a counselor at a program licensed in Iowa pursuant to this chapter. Those deemed qualified remain qualified only for work for that licensed program.

(2) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall maintain a minimum of 30 hours of training within the person’s primary scope of practice every two years, including a minimum of three hours of ethics training. In addition to practicing within their primary scope of practice, certified or licensed personnel may practice within a subspecialty in accordance with this chapter by maintaining a minimum of an additional 20 hours of training within the subspecialty every two years.

ITEM 32. Amend subrule 155.21(9) as follows:

**155.21(9)** *Child abuse/dependent adult abuse/criminal ~~records~~ history background check.*

*a.* Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. Written policies and procedures on reporting alleged violations regarding problem gambling client/patients shall be in compliance with HIPAA and the Iowa Code. Any employee found to be in violation of Iowa Code chapter 232, division III, part 2, sections 232.67 through 232.70, as substantiated by the a department of human services’ investigation shall be subject to the agency’s program’s policies concerning dismissal.

*b.* For each employee working within a juvenile services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain at a minimum:

(1) Documentation of a criminal ~~records~~ history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect or sexual abuse that may exist or dependent adult abuse.

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central ~~child abuse~~ registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

*c.* A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime of or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse does exist, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime of or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person involved.

*e-d.* Each treatment staff member shall complete two hours of training relating to the identification and reporting of child abuse and dependent adult abuse within six months of initial employment and at least two hours of additional training every five years thereafter.

ITEM 33. Amend paragraphs **155.21(10)“f”** and **“g”** as follows:

*f.* The governing body shall establish policies that specify the conditions under which information on applicants or client/patients may be released and the procedures to be followed for releasing such information. Even if a program is not federally funded, all such policies and procedures regarding substance abuse client/patients shall be in accordance with HIPAA and the federal confidentiality regulations, “Confidentiality of Alcohol and Drug Abuse Patient Records,” 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records, and state confidentiality laws and regulations. All such policies and procedures regarding problem gambling client/patients shall be in accordance with HIPAA and Iowa Code chapter 228.

*g.* Confidentiality of alcohol and drug abuse client/patient records. The confidentiality of alcohol and drug abuse client/patient records maintained by a program is protected by HIPAA and the “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records.

ITEM 34. Adopt the following **new** paragraphs **155.21(10)“h,” “i”** and **“j”**:

*h.* Confidentiality of problem gambling client/patient records. The confidentiality of problem gambling client/patient records maintained by a program is protected by HIPAA and Iowa Code chapter 228.

*i.* The provision of treatment to a client/patient through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the licensee, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125 and 2009 Iowa Code Supplement section 135.150 and these rules. A licensee who provides services via electronic media shall inform the client/patient of the limitations and risks associated with such services and shall document in the client/patient case record that such notice has been provided.

*j.* Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code

321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 35. Amend subrule 155.21(11) as follows:

**155.21(11)** *Placement screening, admission, assessment and evaluation.*

*a.* The program shall conduct an initial assessment for substance abuse client/patients which shall include evaluation of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, Revised, or other national or recognized criteria approved by the department upon granting a variance by the director in accordance with 641—Chapter 178 for determining the eligibility of individuals for placement and admission. The program shall utilize a recognized diagnostic test/tool to determine substance abuse or dependence as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition).

*b.* The program shall conduct an initial assessment for problem gambling client/patients that shall utilize a recognized diagnostic test/tool to determine pathological gambling as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition). The client/patient is a problem gambler if the client/patient meets any of the diagnostic criteria for pathological gambling.

~~*a. c.*~~ The program shall have written policies and procedures governing a uniform assessment process that defines:

(1) to (3) No change.

~~*b. d.*~~ Following admission, the comprehensive assessment (psychosocial history) shall be an analysis and synthesis of the client/patient client/patient’s status and shall address the client/patient’s strengths, ~~problems~~ and needs, which may be documented in the comprehensive assessment or in the treatment plan, and areas of clinical concern. Sufficient information shall be collected so that a comprehensive treatment plan can be developed. It shall be developed within the period of time between admission and the first review date specified for that particular level of care within the management of care review process, or within 30 days for problem gambling client/patients.

~~*e. e.*~~ At the time of admission, documentation shall be made that the individual has been informed of:

(1) to (4) No change.

(5) ~~Client’s~~ Client/patient’s rights and responsibilities;

(6) to (8) No change.

~~*f. f.*~~ The results of the screening and admission process shall be clearly explained to the client/patient and to the client/patient’s family when appropriate. This shall be documented in the client/patient record.

ITEM 36. Amend subrule 155.21(12) as follows:

**155.21(12)** *Treatment plans.* Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client/patient case record. The program shall have written policies and procedures governing a uniform process for treatment planning.

*a.* No change.

*b.* The individualized treatment plan shall minimally contain:

(1) A clear and concise statement of the client/patient’s current strengths and needs, which may be documented in the treatment plan or in the comprehensive assessment;

(2) to (5) No change.

*c.* Treatment plans shall be developed in partnership with the client/patient and shall be reviewed by the primary counselor and the client/patient as often as necessary and in accordance with the time frames specified within the management of care review process for substance abuse client/patients. Treatment plans for problem gambling client/patients shall be developed based on the assessment and within 30 days of admission. Treatment plan reviews for problem gambling client/patients shall be conducted within 30 days of each previous review.

*d.* and *e.* No change.

ITEM 37. Amend paragraph **155.21(13)“a”** as follows:

*a.* Entries shall be filed in chronological order and shall include the date services were provided or observations made, the date the entry was made, and the signature or initials and staff title of the individual rendering the services. All progress notes shall be legibly entered into the client/patient case record in permanent pen, by typewriter, or by computer. In those instances where records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature.

ITEM 38. Amend subrule 155.21(14), introductory paragraph, as follows:

**155.21(14)** ~~Client~~ Client/patient case record contents. There shall be a case record for each client/patient that contains:

ITEM 39. Adopt the following new paragraph **155.21(14)“p”**:

*p.* Records of financial counseling services for problem gambling client/patients. The treatment program shall offer financial counseling services to problem gambling client/patients. Financial counseling services shall be provided in-house or through consultation. If the treatment program determines that the problem gambling client/patient has financial problems, then financial counseling services shall include assisting the client/patient in preparing a budget and discussing financial debt options, including restitution and bankruptcy.

ITEM 40. Amend subrule 155.21(15) as follows:

**155.21(15)** *Urinalysis*. All programs serving ~~clients~~ client/patients who are receiving treatment for use or abuse of a controlled substance shall establish policies and procedures, if applicable, for the collection of urine specimens and utilization of urinalysis results.

*a.* Urine specimens obtained from ~~clients~~ client/patients shall be collected under direct supervision and analyzed as indicated by the program.

*b.* and *c.* No change.

*d.* ~~Client~~ Client/patient records shall reflect the manner in which urine test results are utilized in treatment.

*e.* For programs with a urinalysis service, policies shall be developed concerning measures to be employed when urine specimens of ~~clients~~ client/patients are found to contain substances.

ITEM 41. Amend subrule 155.21(16) as follows:

**155.21(16)** *Medical services*. The ~~applicant~~ treatment program shall have policies and procedures developed in conjunction with a physician to examine and evaluate ~~substance abusers~~ client/patients/concerned persons seeking or undergoing treatment or rehabilitation.

*a.* Individuals who enter an inpatient, residential, halfway house ~~facility~~, chemotherapy or emergency care facility (ASAM Levels III.1, III.3, III.5, III.7 and IV) shall undergo a medical history and physical examination. Laboratory examinations may be performed as deemed necessary by the physician. The medical history, physical examination, and necessary laboratory examinations shall be performed as soon as possible, however minimally, as follows:

~~*a.*~~ (1) Inpatient medically managed and medically monitored residential treatment services (ASAM Levels IV and III.7) within 24 hours of admission;

~~*b.*~~ (2) Primary residential and extended residential treatment (Levels III.5 and III.3) within ~~seven~~ 7 calendar days of admission; and

~~*c.*~~ (3) Halfway house services (Level III.1) within 21 calendar days of admission.

~~*b.*~~ For individuals who enter a Level I or Level II service, a medical history shall be obtained upon admission.

~~*c.*~~ A program may accept medical history and physical examination results from referral sources ~~which were conducted~~ if the medical history and examination were completed no more than 90 days prior to admission.

~~*d.*~~ All client/patients admitted to residential, inpatient or halfway house services and high-risk outpatient client/patients shall have a tuberculosis skin test administered and read within 5 days of admission. If the client/patient has documentation of a negative tuberculosis skin test within

the previous 90 days, the tuberculosis test may be accepted if the client/patient does not show any symptoms. If the client/patient has unexplained symptoms or a history of positive tuberculosis skin tests, the physician shall determine what tests are needed.

ITEM 42. Amend paragraph **155.21(18)“a”** as follows:

a. Authorized personnel who administer medications shall be qualified, and an updated list of such personnel shall be maintained. Only the following are designated by ~~657—10.16(124)~~ 657—8.32(124,155A) as qualified individuals to whom a physician can delegate the administration of controlled substances:

(1) to (5) No change.

ITEM 43. Amend subrule 155.21(19) as follows:

**155.21(19) Management of care.** The program shall ensure appropriate level of care utilization by implementing and maintaining the written placement screening, continuing service, and discharge criteria process developed by the department.

a. The ~~programs~~ program shall also address underutilization, overutilization, and the effective use of levels of care available.

b. The time frames for management of care activities minimally shall be implemented within 30 days for Levels I and III.1; within 7 days for Levels II.1, II.5, III.3 and III.5; and daily for Levels III.7 and IV.

c. The discharge planning process shall begin at admission, ~~determining a~~ and shall include a determination of the client/patient's continued need for treatment services and ~~developing~~ development of a plan to address ongoing client/patient needs posttreatment. Discharge planning may or may not include a document identified as a discharge plan.

ITEM 44. Amend subrule 155.21(21) as follows:

**155.21(21) Building construction and safety.** All buildings in which ~~clients~~ client/patients receive screenings, evaluations, assessments or treatment ~~are~~ shall be designed, constructed, equipped, and maintained in a manner that is ~~designed to provide~~ provides for the physical safety of ~~clients~~ client/patients, personnel, and visitors.

a. to c. No change.

d. All programs shall have written policies and procedures to provide a safe environment for ~~clients~~ client/patients, personnel, and visitors and to monitor that environment. The program shall document implementation of the procedures. The written policies and procedures shall include, but not be limited to, the following:

(1) No change.

(2) The promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards related to ~~clients~~ client/patients, visitors, and personnel.

(3) and (4) No change.

ITEM 45. Amend subrule 155.23(2) as follows:

**155.23(2) Meals.** Inpatient and residential programs shall provide a minimum of three meals per day to each client/patient enrolled in the program. Inpatient, residential, and other programs where ~~clients/patients~~ client/patients are not present during mealtime shall make provisions to make available the necessary meals. Menus shall be prepared in consultation with a dietitian. If client/patients are allowed to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health regulations and food hygiene.

ITEM 46. Amend subrule 155.23(8) as follows:

**155.23(8) Religion-culture.** The inpatient, residential, and halfway house program shall have a written description of its religious orientation, particular religious practices that are observed, and any religious restrictions. This description shall be provided to the client/patients, parent(s) or guardian, and the placing agency at the time of admission in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. This information shall also be available to adults during orientation. The client/patient shall have the opportunity to

participate in religious activities and services in accordance with the client/patient's own faith or that of a minor client/patient's parent(s) or guardian. The facility shall, when necessary and reasonable, arrange transportation for religious activities.

ITEM 47. Amend rule 641—155.24(125,135), catchwords, as follows:

**641—155.24(125,135) Specific standards for inpatient, residential, and halfway house substance abuse service-admitting services for juveniles.**

ITEM 48. Amend subrule 155.24(6) as follows:

**155.24(6)** *Illness, accident, death, or absence from the inpatient, residential, and halfway house program.* The program shall have written policies and procedures to notify the child's parent(s), guardian, and responsible agency of any serious illnesses, incidents involving serious bodily injury or absence, or circumstances causing removal of the child from the facility in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. In the event of the death of a child, a facility the program shall notify immediately notify the physician, the child's parent(s) or guardian, the placing agency, and the appropriate state authority.

ITEM 49. Rescind and reserve subrule **155.25(1)**.

ITEM 50. Amend subrule 155.25(2), introductory paragraph, as follows:

**155.25(2)** *Governing body.* Each program shall have a formally designated governing body that is representative of the community being served, complies with ~~the~~ Iowa Code chapter 504 and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for the requirements to have malpractice and liability insurance.

ITEM 51. Amend subrule 155.25(5) as follows:

**155.25(5)** *Staff development and training.* There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain a professional license or substance abuse certification as specified in 155.21(8) will meet the requirement of this subrule.

*a.* Evidence of professional education, substance abuse certification or licensing as specified in 155.21(8), or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, tuberculosis, community resources; screening, evaluation, HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

*b.* No change.

ITEM 52. Amend subrule 155.25(6) as follows:

**155.25(6)** *Management information system.* Programs receiving Medicaid or state funding and programs performing OWI evaluation in accordance with 641—Chapter 157 shall submit ~~client~~ client/patient data to the Iowa Department of Public Health, Division of Behavioral Health ~~and Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with substance abuse reporting system procedures.

ITEM 53. Amend paragraphs **155.25(7)“e”** and **“f”** as follows:

*e.* Maintenance of ~~client~~ client/patient case records;

*f.* Confidentiality of ~~client~~ client/patient records;

ITEM 54. Amend subparagraph **155.25(9)“a”(10)** as follows:

(10) Methods for handling cases of inappropriate ~~client~~ client/patient care;

ITEM 55. Amend paragraph **155.25(9)“b”** as follows:

*b.* The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.

ITEM 56. Amend subrule 155.25(10) as follows:

**155.25(10) Professional qualifications.**

a. Personnel conducting screenings, placements, and assessments ~~shall be certified through the Iowa board of substance abuse certification, or certified by an international certification and reciprocity consortium member board in the states of Illinois, Minnesota, Nebraska, Missouri, South Dakota, and Wisconsin; or be eligible for certification or have education, training, or experience in the substance abuse field.~~ in accordance with this chapter shall meet the requirements of 155.21(8) "i."

b. The sole practitioner shall subscribe to a code of conduct ~~such as that found in professional certification or licensure as specified in 155.21(8).~~

ITEM 57. Amend subrule 155.25(11) as follows:

**155.25(11) Child abuse/dependent adult abuse/criminal ~~records~~ history background check.**

a. Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with the department of human services HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. Any employee found to be in violation of Iowa Code ~~chapter 232, division III, part 2, sections 232.67 through 232.70,~~ as substantiated by the a department of human services' investigation shall be subject to the agency's program's policies concerning dismissal.

b. For each employee working within a juvenile ~~service~~ services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the following, at a minimum, shall be documented:

(1) Documentation of a criminal ~~records~~ history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed, and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect, or sexual abuse ~~that may exist on the applicant or dependent adult abuse.~~

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central ~~child abuse~~ registry for any substantiated reports of child abuse, neglect, or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

(4) A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

c. No change.

ITEM 58. Amend subrule 155.25(12) as follows:

**155.25(12) ~~Client~~ Client/patient case record maintenance.** There shall be written policies and procedures governing the compilation, storage and dissemination of individual ~~client~~ client/patient case records.

a. These policies and procedures shall ensure that:

(1) The program exercises its responsibility for safeguarding and protecting the ~~client~~ client/patient case record against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of ~~client~~ client/patient records are kept uniform; and

(3) Entries in the ~~client~~ client/patient case record are signed and dated.

b. The program shall provide adequate physical facilities for the storage, processing, and handling of ~~client~~ client/patient case records. These facilities shall include suitably locked, secured rooms or file cabinets.

c. Appropriate records shall be readily accessible to those staff members providing services directly to the ~~client~~ client/patient and other individuals specifically authorized by program policy.

d. There shall be a written policy governing the disposal and maintenance of ~~client~~ client/patient case records. ~~Client~~ Client/patient case records shall be maintained for not less than ~~five~~ seven years from the date they are officially closed.

e. Each file cabinet or storage area containing client/patient case records shall be locked.

f. Policies shall be established that specify the conditions under which information on applicants or ~~clients~~ client/patients may be released and the procedures to be followed for releasing such information. All such policies and procedures shall be in accordance with HIPAA and the federal confidentiality regulations, “Confidentiality of Alcohol and Drug Abuse Patient Records,” 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse ~~patient~~ client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse ~~patient~~ client/patient records, and state confidentiality laws and regulations.

g. Confidentiality of alcohol and drug abuse ~~patient~~ client/patient records. The confidentiality of alcohol and drug abuse ~~patient~~ client/patient records maintained by a program is protected by HIPAA and the “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse ~~patient~~ client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse ~~patient~~ client/patient records.

h. Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 59. Amend subparagraphs **155.25(13)“c”(1)** and **(2)** as follows:

(1) Evaluation costs to be borne by the ~~client~~ client/patient, if any;

(2) ~~Client’s~~ Client/patient’s rights and responsibilities; and

ITEM 60. Amend paragraph **155.25(13)“e”** as follows:

e. The results of the screening and evaluation process shall be clearly explained to the ~~client~~ client/patient and to the ~~client’s~~ client/patient’s family when appropriate. This shall be documented in the ~~client~~ client/patient record.

ITEM 61. Amend subrule 155.25(14) as follows:

**155.25(14)** ~~Client~~ Client/patient case record contents. There shall be a case record for each ~~client~~ client/patient that contains:

a. to d. No change.

e. Correspondence related to the ~~client~~ client/patient, including all letters and dated notations of telephone conversations relevant to the ~~client’s~~ client/patient’s treatment;

f. to h. No change.

ITEM 62. Amend subrule 155.25(17) as follows:

**155.25(17) Building construction and safety.** All buildings in which ~~clients~~ client/patients receive treatment shall be designed, constructed, equipped, and maintained in a manner that ~~is designed to provide~~ provides for the physical safety of ~~clients~~ client/patients, personnel, and visitors.

*a.* All programs shall have written policies and procedures to provide a safe environment for ~~clients~~ client/patients, personnel and visitors. The program shall have written policies and procedures for the maintenance, supervision, and safe use of all its grounds and equipment.

*b.* No change.

ITEM 63. Amend subrule 155.25(18) as follows:

**155.25(18) Outpatient facility.** The outpatient facility shall be safe, clean, well-ventilated, properly heated and in good repair.

*a.* The facility shall be appropriate for providing services available from the program and for protecting ~~client~~ client/patient confidentiality.

*b.* Furniture shall be clean and in good repair.

~~*c.* Written reports of annual inspections by state or local fire safety officials and records of corrective action taken by the program on recommendations articulated in such reports shall be maintained.~~

~~*c.*~~ *c.* There shall be a written plan outlining procedures to be followed in the event of fire and tornado. This plan shall be conspicuously displayed at the facility.

~~*d.*~~ *d.* All services shall be accessible to people with disabilities, or the program shall have written policies and procedures that describe how people with disabilities can gain access to the facility for necessary services.

~~*e.*~~ *e.* The program shall ensure confidentiality of ~~clients~~ client/patients receiving services.

~~*f.*~~ *f.* Smoking shall be prohibited ~~except in designated areas~~.

ITEM 64. Amend subrule 155.25(19) as follows:

**155.25(19) ~~Client~~ Client/patient rights.** The program shall maintain written policies and procedures that ensure that the legal and human rights of ~~clients~~ client/patients participating in the program ~~shall be~~ are observed and protected.

*a.* There shall be procedures to inform all ~~clients~~ client/patients of their legal and human rights at the time of evaluation.

*b.* There shall be documentation of the implementation of these procedures.

*c.* There shall be written policies and procedures for:

- (1) ~~Clients~~<sup>2</sup> Client/patient communications, e.g., opinions, recommendations;
- (2) ~~Client~~ Client/patient grievances, with a mechanism for redress;
- (3) Prohibition of sexual harassment; and
- (4) Implementation of the Americans with Disabilities Act.

*d.* There shall be procedures designed to protect ~~the clients~~<sup>2</sup> client/patients' rights and privacy.

ITEM 65. Amend subrule 155.25(20) as follows:

**155.25(20) Administrative and procedural standards.** The program shall comply with the following rules:

*a.* 641—155.2(125,135) Licensing.

*b.* 641—155.3(125,135) Type of licenses.

*c.* 641—155.4(125,135) Nonassignability.

*d.* 641—155.5(125,135) Application procedures.

*e.* 641—155.6(125,135) Application review.

*f.* 641—155.7(125,135) Inspection of licensees.

*g.* 641—155.8(125,135) Licenses—renewal.

*h.* 641—155.9(125,135) Corrective action plan.

*i.* 641—155.10(125,135) Grounds for denial of initial license.

*j.* 641—155.11(125,135) Suspension, revocation, or refusal to renew a license.

*k.* 641—155.12(125,135) Contested case hearing.

- l.* 641—155.13(125,135) Rehearing application.
- m.* 641—155.14(125,135) Judicial review.
- n.* 641—155.15(125,135) Reissuance or reinstatement.
- o.* 641—155.16(125,135) Complaints.
- p.* 641—155.17 Reserved.
- q.* 641—155.18(125,135) Deemed status.
- r.* 641—155.19(125,135) Funding.
- s.* 641—155.20(125,135) Inspection.

ITEM 66. Amend rule 641—155.35(125,135), introductory paragraph, as follows:

**641—155.35(125,135) Specific standards for opioid treatment programs.** All programs that use methadone or other medications approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the state of Iowa for use in the treatment of opioid addiction shall comply with this rule, HIPAA and Part II, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 42 CFR Part 8, Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction, effective May 18, 2001.

ITEM 67. Amend subrule **155.35(1)**, definition of “State authority,” as follows:

“*State authority*” means the Iowa department of public health, division of behavioral health ~~and professional licensure~~, which regulates the treatment of opiate addiction with opioid drugs.

ITEM 68. Amend subrule 155.35(3) as follows:

**155.35(3) Central registry system.** To prevent simultaneous enrollment of a client/patient in more than one program, all opioid treatment programs shall participate in a central registry as established by the division.

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant’s name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA and “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR Part 2, effective June 9, 1987.

*a. Definitions.* For purposes of this subrule:

“*Central registry*” means the system through which the Iowa department of public health, division of behavioral health ~~and professional licensure~~, obtains client/patient identifying information about individuals applying for maintenance or detoxification treatment for the purpose of preventing an individual’s concurrent enrollment in more than one such program.

“*Opioid treatment program*” means a detoxification or maintenance treatment program which is required to report client/patient identifying information to the central registry; and which is located in the state.

*b.* No change.

*c. Use of information limited to prevention of multiple enrollments.* Any information disclosed to the central registry to prevent multiple enrollments may not be redisclosed by the registry or such information used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA and 42 CFR, Part 2, effective June 9, 1987.

*d.* No change.

ITEM 69. Amend paragraph **155.35(12)“e”** as follows:

*e.* Confidentiality of alcohol and drug abuse client/patient case records. The confidentiality of alcohol and drug abuse client/patient case records maintained by a program is protected by HIPAA and the “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient

records. The program is precluded from identifying that a client/patient attends the program or disclosing any information identifying a client/patient as an alcohol or drug abuser unless:

(1) to (4) No change.

ITEM 70. Adopt the following **new** paragraph **155.35(12)“f”**:

*f.* Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 71. Amend paragraph **155.35(15)“c”** as follows:

*c.* Interim maintenance treatment program approval. Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment, the program must receive approval of both the U.S. Food and Drug Administration and the division of behavioral health ~~and professional licensure~~ and:

(1) to (3) No change.

ITEM 72. Amend subrule 155.35(16) as follows:

**155.35(16) Complaints, investigations, suspension and revocation.** The rules relating to complaints, ~~investigation~~ investigations, suspension and revocation as outlined in 641—155.11(125,135) through 641—155.17(125,135) shall apply to opioid treatment programs.

ITEM 73. Amend subparagraph **155.35(17)“a”(1)** as follows:

(1) Joint Commission ~~on Accreditation of Healthcare Organizations (JCAHO)~~.

ITEM 74. Amend subparagraph **155.35(17)“c”(3)** as follows:

(3) Copies of the entire CARF, ~~JCAHO~~ Joint Commission, COA or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

ITEM 75. Amend subparagraph **155.35(17)“d”(2)** as follows:

(2) The division shall investigate all complaints that are under the authority of this chapter and recommend and require corrective action or other sanctions in accordance with 641—155.16(125,135). All complaints, findings and required corrective action may be reported to the accreditation body.

ITEM 76. Amend paragraph **155.35(17)“e”** as follows:

*e.* Continuation of deemed status. The program shall submit a copy of all CARF, ~~JCAHO~~ Joint Commission, COA or AOA behavioral health accreditation survey reports to the division.

ITEM 77. Adopt the following **new** subrule 155.35(18):

**155.35(18) Personnel qualifications.**

*a.* Personnel providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet the requirements of 155.21(8)“i.”

*b.* Personnel in opioid treatment programs shall subscribe to a code of conduct found in professional certification or licensure as specified in 155.21(8).

ITEM 78. Amend **641—Chapter 155**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 125.13 and 125.21 and 2009 Iowa Code Supplement section 135.150.

ITEM 79. Rescind and reserve **641—Chapter 162**.